

House Daily Reader

Tuesday, February 25, 2003

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State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

813I0458

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HCR 1008** - 02/20/2003

Introduced by: Representatives Garnos, Burg, Christensen, Cradduck, Cutler, Davis, Dadrick (Thomas), Dykstra, Frost, Frysliie, Hackl, Hargens, Heineman, Hundstad, Juhnke, Klaudt, Kraus, Lintz, McCaulley, McCoy, McLaughlin, Nesselhuf, Olson (Mel), Rave, Rhoden, Schafer, Van Etten, Weems, Wick, and Williamson and Senators Koskan, Bogue, Dennert, Duxbury, Greenfield, Jaspers, and McCracken

1 A CONCURRENT RESOLUTION, Urging the adoption of a scientific drought relief program.

2 WHEREAS, many areas in South Dakota have been devastated by drought in recent years,
3 particularly during 2002; and

4 WHEREAS, preliminary estimates for drought damage to crops in South Dakota for 2002
5 is \$240.2 million and damage to forage is \$241.8 million; and

6 WHEREAS, the current and proposed systems of federal drought relief are not equitable in
7 several respects. The current and proposed systems do not provide livestock producers with the
8 same level of benefits provided for crop producers, do not help producers who were forced by
9 drought to sell off livestock, and do not help the producers of some species of livestock; and

10 WHEREAS, many of these problems could be corrected through the use of a scientific
11 approach that provides accurate estimates of drought damage to crops and forage so that
12 producers are treated more fairly and those with the greatest need would receive the greatest



1 assistance; and

2 WHEREAS, a scientific drought relief program would provide assistance to livestock and
3 crop producers in proportion to reduced production caused by the absence of moisture, with
4 payment based on deviation from normal moisture applied to the productivity of the land.
5 Compensation would be tied directly to the crops or livestock forage that did not grow because
6 of inadequate moisture:

7 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Seventy-
8 eighth Legislature of the State of South Dakota, the Senate concurring therein, that the South
9 Dakota Legislature urges the United States Congress and the United States Department of
10 Agriculture to redesign the federal approach to drought relief and to base drought relief on
11 scientific criteria that address actual impacts of drought on crops and livestock forage; and

12 BE IT FURTHER RESOLVED, that if the federal government does not adopt a system of
13 scientific drought relief, the Congress and the United States Department of Agriculture are urged
14 to allow the states flexibility to design their own drought relief systems in partnership with
15 federal officials and agencies to better address local and regional drought relief needs.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

534I0109

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 58** - 01/29/2003

Introduced by: Senators Vitter, Albers, Duniphan, Ham, Kleven, and McCracken and
Representatives Madsen, Lintz, McCoy, McLaughlin, and Pederson (Gordon)

1 FOR AN ACT ENTITLED, An Act to establish the value added tourism subfund and to provide
2 for its funding and disbursement.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
5 follows:

6 There is created within the revolving economic development and initiative fund, created in
7 § 1-16G-3, the value added tourism subfund. The purpose of the subfund is to make grants or
8 loans for tourism development, feasibility studies, or marketing.

9 Section 2. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
10 follows:

11 For purposes of this Act, the term, value added tourism, means the development of new or
12 underused tourism-related activities, sites, or destinations that use historical, cultural, scenic,
13 wildlife, or other resources so that new tourists or visitors are drawn to South Dakota or so that
14 current classes and types of tourists or visitors lengthen their stay in South Dakota or pursue
15 additional activities or destinations during their stay.



1 Section 3. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The Board of Economic Development shall designate three million dollars of the money in
4 the revolving economic development and initiative fund for the purposes of the value added
5 tourism subfund.

6 Section 4. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The Board of Economic Development shall administer the value added tourism subfund and
9 make grants or loans from the value added tourism subfund. The value added tourism subfund
10 shall be used to develop and promote value added tourism in South Dakota.

11 Section 5. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
12 follows:

13 In connection with the administration of the value added tourism subfund, the Board of
14 Economic Development may, pursuant to chapter 1-26, promulgate rules to:

- 15 (1) Set the application procedures for those who apply for loans or grants from the value
16 added tourism subfund;
- 17 (2) Establish criteria to determine which applicants will receive such loans or grants;
- 18 (3) Govern the use of proceeds of such loans or grants;
- 19 (4) Establish criteria for the terms and conditions upon which such loans or grants shall
20 be made, including the terms of security given, if any, to secure such loans; and
- 21 (5) Govern the use of proceeds by lenders of funds advanced to the lenders by the board
22 including the terms and conditions upon which the proceeds shall be loaned to
23 borrowers for the purposes described in this Act.

24 Section 6. That § 1-16G-24 be amended to read as follows:

1 1-16G-24. Earnings on the revolving economic development and initiative fund, the value
2 added tourism subfund, and the value added agriculture subfund may be used for the
3 administrative costs of the Division of Finance of the Governor's Office of Economic
4 Development. Such earnings shall be expended in accordance with the provisions of Title 4 on
5 warrants drawn by the state auditor on vouchers approved by the commissioner of the
6 Governor's Office of Economic Development. Eligible expenses may not exceed total interest
7 earnings during the previous fiscal year prior to the deduction of loan losses for the same fiscal
8 year.

State of South Dakota

SEVENTY-EIGHTH SESSION LEGISLATIVE ASSEMBLY, 2003

570I0482

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 72** - 02/22/2003

Introduced by: Senators McCracken, Apa, Bogue, Moore, Sutton (Dan), and Vitter and
Representatives Konold, Burg, Cutler, Frost, Madsen, Nesselhuf, Schafer,
Sebert, Sigdestad, and Wick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to notice for insufficient
2 funds checks.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-41-3.1 be amended to read as follows:

5 22-41-3.1. The holder of an insufficient funds check shall, before presenting it to the state's
6 attorney for prosecution, serve a notice of dishonor upon the writer of the check, by registered
7 or certified mail, return receipt requested, or by first class mail, supported by an affidavit of
8 mailing sworn and retained by the sender, in the United States mail and addressed to the
9 recipient's most recent address known to the sender. If the notice is mailed and not returned as
10 undeliverable by the United States Postal Service, notice shall be conclusively presumed to have
11 been given on the date of mailing. The holder of the dishonored check shall upon return of the
12 receipt hold it for a period of at least five days, or eight days if notice is given by first class mail,
13 and upon the expiration of that period shall present the check with the attached bank return,
14 return receipt or affidavit of mailing, and copy of the dishonor notice to the state's attorney for



1 prosecution.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0561

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 76** - 01/31/2003

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to bring the state into compliance with the Streamline Sales
2 Tax Agreement.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45-1 be amended by adding thereto a NEW SUBDIVISION to read as
5 follows:

6 "Tangible personal property," personal property that can be seen, weighed, measured, felt,
7 or touched, or that is in any other manner perceptible to the senses. The term includes electricity,
8 water, gas, steam, and prewritten computer software.

9 Section 2. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 For the purposes of the tax imposed by this chapter, the term, lease or rental, means any
12 transfer of possession or control of tangible personal property for a fixed or indeterminate term
13 for consideration. A lease or rental may include future options to purchase or extend. Lease or
14 rental does not include:

15 (1) A transfer of possession or control of property under a security agreement or deferred



1 payment plan that requires the transfer of title upon completion of the required
2 payments;

3 (2) A transfer or possession or control of property under an agreement that requires the
4 transfer of title upon completion of required payments and payment of an option price
5 does not exceed the greater of one hundred dollars or one percent of the total
6 required payments; or

7 (3) Providing tangible personal property along with an operator for a fixed or
8 indeterminate period of time. A condition of this exclusion is that the operator is
9 necessary for the equipment to perform as designed. For the purpose of this
10 subdivision, an operator shall do more than maintain, inspect, or set-up the tangible
11 personal property.

12 Section 3. That § 10-45-12.3 be repealed.

13 ~~10-45-12.3. The tax imposed by this chapter upon persons performing services does not~~
14 ~~apply to transactions if the use of the service occurs entirely outside the state. In instances of~~
15 ~~services performed on tangible personal property, use of the service occurs in this state if repair,~~
16 ~~refurbishment, adjustment, calibration, cleaning, maintenance, or other services are performed~~
17 ~~on tangible personal property in this state.~~

18 Section 4. That § 10-45-14.1 be amended to read as follows:

19 10-45-14.1. There are specifically exempted from the provisions of this chapter and from the
20 computation of the amount of tax imposed by it, gross receipts from the sale of nutritional
21 supplements, as defined by rule promulgated by the secretary of revenue pursuant to chapter
22 1-26, if dispensed by a chiropractor, ~~insulin that is not sold by prescription, all drugs and~~
23 ~~medicines as those terms are defined by § 36-11-2 and medical devices as that term is defined~~
24 ~~in this section to the extent used by humans, when such drugs, medicines, or medical devices are~~

1 ~~prescribed by prescription, dispensed, or administered by a physician, chiropractor, optometrist,~~
2 ~~dentist, or podiatrist.~~

3 ~~—"Medical device," as used in this section and § 10-46-15.1, means an instrument, apparatus,~~
4 ~~implement, machine, contrivance, implant, in vitro reagent, or other similar or related article,~~
5 ~~including any component, part, or accessory, which is prescribed for use by a particular patient~~
6 ~~and which is:~~

7 ~~—(1)—Intended for use in the diagnosis of disease or other conditions, or in the cure,~~
8 ~~mitigation, treatment, detection, or prevention of illness or disease, or in the~~
9 ~~prevention of death; or~~

10 ~~—(2)—Intended to affect the structure or any function of the human body; or~~

11 ~~—(3)—Intended for use to assist in the mobility of persons: physician, chiropractor,~~
12 ~~optometrist, dentist, podiatrist, or audiologist.~~

13 Section 5. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 There are specifically exempted from the provisions of this chapter and from the computation
16 of the amount of tax imposed by it, gross receipts from the sale of insulin, to the extent used by
17 humans, that is not sold by prescription.

18 Section 6. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 There are specifically exempted from the provisions of this chapter and from the computation
21 of the amount of tax imposed by it, gross receipts from the sale of drugs as defined by rule
22 promulgated by the secretary of revenue pursuant to chapter 1-26 to the extent used by humans,
23 if the drugs are prescribed by prescription, dispensed, or administered by a physician,
24 chiropractor, optometrist, dentist, podiatrist, or audiologist.

Section 7. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as follows:

There are specifically exempted from the provisions of this chapter and from the computation of the amount of tax imposed by it, gross receipts from the sale of durable medical equipment, mobility enhancing equipment, and prosthetic devices as defined by rule promulgated by the secretary of revenue pursuant to chapter 1-26 to the extent used by humans, if the durable medical equipment, mobility enhancing equipment, and prosthetic devices are prescribed by prescription by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist.

Section 8. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as follows:

There are specifically exempted from the provisions of this chapter and from the computation of the amount of tax imposed by it, gross receipts from the sale of any medical device, as that term is defined in this section, to the extent used by humans, if the medical device is prescribed by prescription by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist. The term, medical device, means any instrument, apparatus, implement, contrivance, or other similar or related article, including a component, part, or accessory, that is prescribed for use on a single patient and that is:

- (1) Recognized in the official National Formulary, or the United States Pharmacopoeia, or any supplement to them;
- (2) Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, detection, or prevention of disease, of the human body; or
- (3) Intended to affect the structure or any function of the human body, and that does not achieve any of it's primary intended purposes through chemical action within or on the human body and that is not dependent upon being metabolized for the achievement

1 of any of its primary intended purposes.

2 A medical device is not durable medical equipment, mobility enhancing equipment, or a
3 prosthetic device.

4 Section 9. That § 10-45-24 be amended to read as follows:

5 10-45-24. Each retailer or person engaging in a business in this state whose receipts are
6 subject to sales tax shall file with the Department of Revenue, an application for a permit. Each
7 application shall be made on a form prescribed by the secretary of revenue and shall require the
8 name under which the applicant transacts or intends to transact business, the location of each
9 business, and other information as the secretary of revenue may require. ~~The application shall be~~
10 ~~signed by the owner, if a natural person, by a member or partner, if an association or partnership,~~
11 ~~or by an executive officer or a person specifically authorized by the corporation to sign the~~
12 ~~application, if a corporation, to which shall be attached the written evidence of the person's~~
13 ~~authority.~~ The applicant shall have a permit for each place of business, unless the secretary of
14 revenue grants a request for a statewide permit. A statewide permit may be granted if the
15 applicant demonstrates the ability to comply with the filing, auditing, and record-keeping
16 requirements specified in rules promulgated pursuant to § 10-45-47.1 for each location specified
17 in the application.

18 Any seller registering under the agreement as defined in § 10-45C-1 shall be registered in this
19 state, provided this state has entered into the agreement as provided in § 10-45C-3. ~~Any seller~~
20 ~~who is registered under such agreement is not required to sign the registration application and~~
21 ~~may register through an agent.~~ Any seller who is registered under such agreement may cancel
22 its registration at any time, but is liable for remitting any sales tax previously collected.

23 Section 10. That subdivision (12) of § 10-46-1 be amended to read as follows:

24 (12) "Tangible personal property," ~~tangible goods, wares, merchandise, gas, and electricity~~

personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses if furnished or delivered to consumers or users within this state. The term includes electricity, water, gas, steam, and prewritten computer software;

Section 11. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as follows:

For the purpose of the tax imposed by this chapter, the term, lease or rental, means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. Lease or rental does not include:

- (1) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
- (2) A transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars or one percent of the total required payments; or
- (3) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subdivision, an operator shall do more than maintain, inspect, or set-up the tangible personal property.

Section 12. That § 10-46-15.1 be amended to read as follows:

10-46-15.1. The use in this state of insulin, to the extent used by humans, that is not sold by

1 ~~prescription and drugs and medicines, as those terms are defined by § 36-11-2 and medical~~
2 ~~devices as that term is defined in § 10-45-14.1 to the extent used by humans, when such drugs,~~
3 ~~medicines, or medical devices are prescribed by prescription, dispensed, or administered by a~~
4 ~~physician, chiropractor, optometrist, dentist, or podiatrist is specifically exempted~~ exempt ~~from~~
5 the tax imposed by this chapter.

6 Section 13. That § 10-46-18.1 be amended to read as follows:

7 10-46-18.1. For the purposes of proper administration of this chapter and to prevent evasion
8 of tax, evidence that a service is used in this state shall be prima facie evidence that the service
9 ~~was performed in this state, and that the service~~ is subject to tax.

10 Section 14. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The use in this state of drugs as defined by rule promulgated by the secretary of revenue
13 pursuant to chapter 1-26 to the extent used by humans, if the drugs are prescribed by
14 prescription, dispensed, or administered by a physician, chiropractor, optometrist, dentist,
15 podiatrist, or audiologist, is specifically exempt from the tax imposed by this chapter.

16 Section 15. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The use in this state of durable medical equipment, mobility enhancing equipment, and
19 prosthetic devices as defined by rule promulgated by the secretary of revenue pursuant to chapter
20 1-26 to the extent used by humans, if the durable medical equipment, mobility enhancing
21 equipment, and prosthetic devices are prescribed by prescription by a physician, chiropractor,
22 optometrist, dentist, podiatrist, or audiologist, is specifically exempt from the tax imposed by this
23 chapter.

24 Section 16. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 There are specifically exempted from the provisions of this chapter and from the computation
3 of the amount of tax imposed by it, the use of any medical device, as that term is defined in this
4 section, to the extent used by humans, if the medical device is prescribed by prescription by a
5 physician, chiropractor, optometrist, dentist, podiatrist, or audiologist. The term, medical device,
6 means any instrument, apparatus, implement, contrivance, or other similar or related article,
7 including a component, part, or accessory, that is prescribed for use on a single patient and that
8 is:

- 9 (1) Recognized in the official National Formulary, or the United States Pharmacopoeia,
10 or any supplement to them;
- 11 (2) Intended for use in the diagnosis of disease or other conditions, or in the cure,
12 mitigation, treatment, detection, or prevention of disease, of the human body; or
- 13 (3) Intended to affect the structure or any function of the human body, and that does not
14 achieve any of it's primary intended purposes through chemical action within or on
15 the human body and that is not dependent upon being metabolized for the
16 achievement of any of its primary intended purposes.

17 A medical device is not durable medical equipment, mobility enhancing equipment, or a
18 prosthetic device.

19 Section 17. That § 10-52-3 be amended to read as follows:

20 10-52-3. Any tax imposed by the governing board of any municipality pursuant to the
21 provisions of this chapter, may be referred to a vote of the people for its approval or disapproval
22 in the same manner as provided in §§ 9-20-7, 9-20-8, and 9-20-10. A tax imposed by municipal
23 ordinance which was in effect on December 31, ~~2005~~ 2003, is continued under the provisions
24 of this chapter if:

(1) The governing board of the municipality has reviewed the existing tax ordinance to determine compliance with the provisions of this chapter; and

(2) The governing board of the municipality documents the review, any amendment, and the intent to continue the tax in the official minutes of the governing board.

Any amendment made by the municipality to comply with the provisions of chapter 10-45C, §§ 10-1-44.3, 10-45-1 to 10-45-1.4, inclusive, 10-45-2.3, 10-45-3, 10-45-3.4, 10-45-5, 10-45-5.3, 10-45-8, 10-45-24, 10-45-30, 10-45-61, 10-45-108 and 10-45-109, 10-46-1, 10-46-17.6, 10-52-2, 10-52-2.10, 10-52-3, 10-52-9, 10-52-13 to 10-52-16, inclusive, and 10-59-27 or the determination to continue the tax under the provisions of this chapter is deemed to be an administrative decision pursuant to § 9-20-19 and is not subject to referendum.

Section 18. That § 10-52-2.10 be amended to read as follows:

10-52-2.10. Any incorporated municipality imposing a non-ad valorem tax in accordance with § 10-52-2 may issue municipal non-ad valorem tax revenue bonds pursuant to this section and chapter 6-8B in anticipation of the collection of the taxes. The bonds shall be payable solely from the collections of the taxes imposed by the municipality under § 10-52-2, as determined by the governing body. The governing body shall, in the resolution or ordinance authorizing the bonds, agree that it will continue to impose and collect the taxes so long as the bonds are outstanding. The governing body shall also pledge so much of the collections of the taxes as may be necessary to pay the principal premium and interest on the bonds and to maintain any debt service reserve established for the bonds. For bonds issued prior to January 1, ~~2006~~ 2004, the proceeds of the bonds may be used for land acquisition, the funding of public ambulances and medical emergency response vehicles, public hospitals or nonprofit hospitals with fifty or fewer licensed beds and other public health care facilities or nonprofit health care facilities with fifty or fewer licensed beds, capital asset acquisition and capital improvements, to establish a debt

1 service reserve fund for the bonds and to pay not more than one year's capitalized interest on the
2 bonds.

3 No election is required to authorize the issuance of municipal non-ad valorem tax revenue
4 bonds. The bonds shall be issued and sold as provided in chapter 6-8B.

5 Section 19. That § 10-52-13 be amended to read as follows:

6 10-52-13. For purposes of this chapter, any new resolution or amendment enacted by a
7 municipality ~~which~~ that changes the boundaries of the municipality is effective on the first day
8 of the first ~~month~~ calendar quarter following at least ninety days notification by the municipality
9 to the secretary of revenue that the resolution or amendment has been enacted unless the
10 ordinance or amendment is suspended by operation of a referendum. If a resolution or
11 amendment enacted pursuant to chapter 9-4 is referred and the referred resolution or amendment
12 is approved, the effective date is the first day of the first ~~month~~ calendar quarter following at
13 least ninety days notification by a municipality to the secretary of revenue that the resolution or
14 amendment has been approved. The municipality shall provide written notification of the
15 enactment or approval of the resolution or amendment, along with a copy of the resolution or
16 amendment by registered or certified mail or by any electronic means to the secretary of revenue.
17 The municipality shall also provide any changes or additions to streets and addresses.

18 Section 20. That § 10-52-15 be amended to read as follows:

19 10-52-15. The Legislature hereby finds that the amendments to chapter 10-52 contained in
20 SL 2002, ch 64, ~~shall~~ will result in a broader and more uniform tax base for the sales tax levied
21 by municipalities under this chapter, and that, absent a reduction in the current tax levy of a
22 municipality, it is anticipated that total sales tax revenues of a municipality may increase as a
23 result of these amendments. However, so long as a municipality has any bonds or other
24 obligations outstanding which are secured directly or indirectly by the pledge or collection and

1 application of sales taxes levied pursuant to chapter 10-52 as in effect immediately prior to
2 January 1, ~~2006~~ 2004, no municipality may reduce its tax levy under chapter 10-52 to a rate
3 which, in the exercise of the sound discretion of the governing body, would be expected to
4 produce less total revenue than was collected in the immediately preceding year.

5 Section 21. That section 46 of chapter 64 of the 2002 Session Laws be amended to read as
6 follows:

7 Section 46. Sections 18, 19, 20, 21, 30, ~~32, 33, 34~~, 35, ~~36~~, 41, 42, and 44 are effective on
8 January 1, 2006. Sections 32, 33, 34, and 36 are effective on January 1, 2004.

9 Section 22. That section 48 of chapter 64 of the 2002 Session Laws be amended to read as
10 follows:

11 Section 48. Section 47 of this Act is repealed on January 1, ~~2007~~ 2005.

12 Section 23. The secretary of revenue may enter into contracts with certified service providers
13 for the collection and reporting of the tax imposed under chapters 10-45, 10-46, and 10-52. The
14 secretary may enter into such contracts in conjunction with other states.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

239I0601

SENATE ENGROSSED NO. **SB 119** - 02/20/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Moore and Duniphan and Representatives Smidt and Michels

1 FOR AN ACT ENTITLED, An Act to require owners of abandoned vehicles to pay for certain
2 towing and storage expenses and to provide a penalty for the intentional abandonment of
3 certain motor vehicles.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Any owner of a motor vehicle who abandons the motor vehicle on any public
6 highway or right-of-way is financially responsible to the towing company for the expense of
7 towing the motor vehicle. The owner is also financially responsible for any storage expense
8 pursuant to § 32-36-8.

9 Section 2. No owner of a motor vehicle may intentionally abandon the motor vehicle on any
10 public highway or right-of-way. A violation of this section is a Class 1 misdemeanor. Any person
11 convicted of abandoning a motor vehicle shall be ordered to pay a fine of five hundred dollars.
12 The court shall suspend the fine if the owner pays for the towing and storage expenses.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

283I0370

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 172** - 02/22/2003

Introduced by: Senators Schoenbeck, Abdallah, Albers, Apa, Bogue, Diedrich (Larry), Duenwald, Greenfield, Ham, Jaspers, Kelly, Kleven, Kloucek, Knudson, Koetzle, Kooistra, Koskan, LaPointe, McCracken, Moore, Napoli, Olson (Ed), Reedy, Sutton (Dan), Sutton (Duane), Symens, and Vitter and Representatives Heineman, Bartling, Begalka, Bradford, Christensen, Cutler, Davis, Dykstra, Elliott, Frost, Fryslie, Gassman, Glenski, Hackl, Haverly, Hunhoff, Juhnke, Klaudt, Koistinen, Konold, Kraus, Lange, Lintz, Madsen, McCaulley, McCoy, Michels, Miles, Novstrup, O'Brien, Olson (Ryan), Pederson (Gordon), Peterson (Bill), Peterson (Jim), Putnam, Rave, Rhoden, Rounds, Schafer, Sebert, Sigdestad, Smidt, Solum, Teupel, Van Etten, Van Gerpen, Weems, and Wick

1 FOR AN ACT ENTITLED, An Act to require the Department of Health to place certain
2 information on its website.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Department of Health shall, by January 1, 2004, develop and maintain a multi-
5 media website that contains web pages covering each of the following topics:

6 (1) Embryonic and fetal development at various gestational stages;

7 (a) Anatomical and physiological characteristics; and

8 (b) Survival possibilities of the unborn child;

9 (2) Abortion methods commonly used for each trimester of pregnancy;

10 (3) Statistically significant abortion method risks, including infection, hemorrhage, danger



1 to subsequent pregnancies, and infertility;

2 (4) Important pre-abortion procedures;

3 (a) Confirmation of pregnancy via sonogram; and

4 (b) Counseling and discussion of medical history to detect possible abortion risks;

5 (5) Post-abortion psychological and emotional complications;

6 (6) Parental notification as required by § 34-23A-7;

7 (7) Assistance, benefits, and services:

8 (a) Names and contact information of public and private agencies; and

9 (b) Types and availability of public medical benefits and services;

10 (8) Responsibility of the father of the unborn child;

11 (9) Statistically significant pregnancy risks;

12 (10) Adoption options:

13 (a) Names and contact information of public and private agencies; and

14 (b) Description of services.

15 The state shall collect and maintain web statistics regarding the website developed and
16 maintained pursuant to this section. However, no personal information may be collected.

17 Section 2. That § 34-23A-10.1 be amended to read as follows:

18 34-23A-10.1. No abortion may be performed except with the voluntary and informed consent
19 of the female upon whom the abortion is to be performed. Except in the case of a medical
20 emergency, consent to an abortion is voluntary and informed only if:

21 (1) The female is told the following by the physician who is to perform the abortion or
22 by the referring physician, at least twenty-four hours before the abortion:

23 (a) The name of the physician who will perform the abortion;

24 (b) The particular medical risks associated with the particular abortion procedure

1 to be employed including, when medically accurate, the risks of infection,
2 hemorrhage, danger to subsequent pregnancies, and infertility;

3 (c) The probable gestational age of the unborn child at the time the abortion is to
4 be performed; and

5 (d) The medical risks associated with carrying her child to term;

6 (2) The female is informed, by telephone or in person, by the physician who is to perform
7 the abortion, by the referring physician, or by an agent of either, at least twenty-four
8 hours before the abortion:

9 (a) That medical assistance benefits may be available for prenatal care, childbirth,
10 and neonatal care;

11 (b) That the father is liable to assist in the support of her child, even in instances
12 in which the father has offered to pay for the abortion; and

13 (c) That she has the right to review the printed materials described in
14 § 34-23A-10.3 and the website described in section 1 of this Act. The physician
15 or ~~his~~ the physician's agent shall orally inform the female that the materials have
16 been provided by the State of South Dakota at no charge to the female. If the
17 female chooses to view the materials, they shall either be given to her at least
18 twenty-four hours before the abortion or mailed to her at least seventy-two
19 hours before the abortion by certified mail, restricted delivery to addressee,
20 which means the postal employee can only deliver the mail to the addressee;

21 (3) The female certifies in writing, prior to the abortion, that the information described
22 in subdivisions (1) and (2) of this section has been furnished her, and that she has been
23 informed of her opportunity to review the information described in § 34-23A-10.3;
24 and

1 (4) Prior to the performance of the abortion, the physician who is to perform the abortion
2 or ~~his~~ the physician's agent receives a copy of the written certification prescribed by
3 subdivision (3).

4 The physician may provide the information prescribed in subdivision (1) by telephone without
5 conducting a physical examination or tests of the patient, in which case the information required
6 to be supplied may be based on facts supplied the physician by the female and whatever other
7 relevant information is reasonably available to the physician.